

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature Second Regular Session - 2012

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 542, As Amended

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO TAKING OF WILDLIFE; AMENDING SECTION 36-1101, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE PROHIBITION ON HUNTING FROM A MOTORIZED VEHICLE, TO ESTABLISH PROVISIONS RELATING TO RESTRICTIONS ON RULEMAKING AND POLICY RELATING TO MOTORIZED VEHICLE USE ON TRAILS OR ROADS ON CERTAIN LANDS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 36-1401, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 36-1101, Idaho Code, be, and the same is hereby amended to read as follows:

36-1101. TAKING OF WILDLIFE UNLAWFUL EXCEPT BY STATUTE OR COMMISSION RULE OR PROCLAMATION -- METHODS PROHIBITED -- EXCEPTIONS. (a) It is unlawful, except as may be otherwise provided by Idaho law, including this title or commission rules or proclamations promulgated pursuant thereto, for any person to take any of the game animals, birds or fur-bearing animals of this state.

(b) Except as may be otherwise provided under this title or commission rules or proclamations promulgated pursuant thereto, it is unlawful for any person to:

1. Hunt from Motorized Vehicles. Hunt any of the game animals or game birds of this state from ~~or by the use of~~ any motorized vehicle except ~~as provided by commission rule; provided however,~~ that the commission shall promulgate rules which shall allow a physically disabled person to apply for a special permit which would allow the person to hunt from a motorized vehicle which is not in motion. A physically disabled person means a person who has lost the use of one (1) or both lower extremities or both hands, or is unable to walk two hundred (200) feet or more unassisted by another person, or is unable to walk two hundred (200) feet or more without the aid of a walker, cane, crutches, braces, prosthetic device or a wheelchair, or is unable to walk two hundred (200) feet or more without great difficulty or discomfort due to one (1) or more of the following impairments: neurological, orthopedic, respiratory, cardiac, arthritic disorder, blindness, or the loss of function or absence of a limb.

The commission shall specify the form of application for and design of the special permit which shall allow a physically disabled person to hunt from a motorized vehicle which is not in motion. No fee shall be charged for the issuance of the special permit and the issuance of a special permit shall not exempt a person from otherwise properly purchasing or obtaining other necessary licenses, permits and tags in accordance with this title and rules promulgated pursuant thereto. The special permit shall not be transferable and may only be used by the

1 person to whom it is issued. A person who has been issued a special per-
2 mit which allows a physically disabled person to hunt from a motorized
3 vehicle not in motion shall have that permit prominently displayed on
4 any vehicle the person is utilizing to hunt from and the person shall
5 produce, on demand, the permit and other identification when so re-
6 quested by a conservation officer of the department of fish and game. A
7 person possessing a special permit shall not discharge any firearm from
8 or across a public highway. In addition to other penalties any unautho-
9 rized use of the special permit shall be grounds for revocation of the
10 permit.

11 2. Molest with Motorized Vehicles. Use any motorized vehicle to mo-
12 lest, stir up, rally or drive in any manner any of the game animals or
13 game birds of this state.

14 3. Restriction on Rulemaking and Policy. Other than the specific
15 limitations imposed by the express language of this section relating
16 to motorized vehicles, neither the commission nor the department may
17 impose, pursuant to administrative rule, policy or otherwise, restric-
18 tions on the use of motorized vehicles on trails or roads on federally
19 managed lands. This paragraph specifically prohibits the commission
20 and department from restricting the use of motorized vehicles on trails
21 and roads that are otherwise open to motorized vehicle use on federally
22 managed lands.

23 4. Communicate from Aircraft. Make use of aircraft in any manner to
24 spot or locate game animals, game birds or fur-bearing animals of this
25 state from the air and communicate the location or approximate location
26 thereof by any signals whatsoever, whether radio, visual or otherwise,
27 to any person then on the ground.

28 45. Hunt from Helicopter. Make use of any helicopter in any manner
29 in the taking of game or loading, transporting, or unloading hunters,
30 game or hunting gear in any manner except when such use is at recognized
31 airports or airplane landing fields, or at heliports which have been
32 previously established on private land or which have been established
33 by a department or agency of the federal, state or local government or
34 when said use is in the course of emergency or search and rescue oper-
35 ations. Provided however, that nothing in this chapter shall limit
36 or prohibit the lawful control of wolves or predatory or unprotected
37 animals through the use of helicopters when such measures are deemed
38 necessary by federal or state agencies in accordance with existing laws
39 or management plans.

40 56. Hunt with Aid of Aircraft. Make use of any aircraft to locate any
41 big game animal for the purpose of hunting those animals during the same
42 calendar day those animals were located from the air. Provided however,
43 that nothing in this chapter shall limit or prohibit the lawful control
44 of wolves or predatory or unprotected wildlife through the use of air-
45 craft when such measures are deemed necessary by federal or state agen-
46 cies in accordance with existing laws or management plans.

47 67. Artificial Light. Hunt any animal or bird except raccoon by the aid
48 of a spotlight, flashlight or artificial light of any kind. The act of
49 casting or throwing, after sunset, the beam or rays of any spotlight,
50 headlight or other artificial light capable of utilizing six (6) volts

or more of electrical power upon any field, forest or other place by any person while having in his possession or under his control any uncased firearm or contrivance capable of killing any animal or bird, shall be prima facie evidence of hunting with an artificial light. Provided nothing in this subsection shall apply where the headlights of a motor vehicle, operated and proceeding in a normal manner on any highway or roadway, cast a light upon animals or birds on or adjacent to such highway or roadway and there is no intent or attempt to locate such animals or birds. Provided further, nothing in this ~~subsection~~ paragraph shall prevent the hunting of unprotected or predatory wildlife with the aid of artificial light when such hunting is for the purpose of protecting property or livestock, is done by landowners or persons authorized in writing by them to do so and is done on property they own, lease or control; and provided further that the hunting and taking of unprotected or predatory wildlife with the aid of artificial light on public lands is authorized after obtaining a permit to do so from the director. The director may, for good cause, refuse to issue such permit. Other provisions of this subsection notwithstanding, the commission may establish rules allowing the hunting of raccoon with the aid of an artificial light.

78. Regulation of Dogs.

(A) No person shall make use of a dog for the purpose of pursuing, taking or killing any of the big game animals of this state except as otherwise provided by rules of the commission.

(B) Any person who is the owner of, or in possession of, or who harbors any dog found running at large and which is actively tracking, pursuing, harassing or attacking, or which injures or kills deer or any other big game animal within this state shall be guilty as provided in section 36-1401(a)1.(F), Idaho Code. It shall be no defense that such dog or dogs were pursuing said big game animals without the aid or direction of the owner, possessor, or harbinger.

(C) Any dog found running at large and which is actively tracking, pursuing, harassing, attacking or killing deer or any other big game animal may be destroyed without criminal or civil liability by the director, or any peace officer, or other persons authorized to enforce the Idaho fish and game laws.

89. Attempt to take Simulated Wildlife.

(A) Attempt to take, by firearm or any other contrivance capable of killing an animal or bird, simulated wildlife in violation of any of the provisions of this title or commission rules applicable to the taking of the wildlife being simulated, when the simulated wildlife is being used by a conservation officer or other person authorized to enforce Idaho fish and game laws or rules promulgated pursuant thereto. No person shall be found guilty of violating either this subparagraph, or subparagraph (B) of this paragraph, provided that no other law or rule has been violated.

(B) Any person pleading guilty to, convicted of or found guilty for attempting to take simulated wildlife within this state shall be guilty of a misdemeanor and shall be punished as provided in either subsection (b) or (d) of section 36-1402, Idaho Code, and

shall pay restitution in an amount of no less than fifty dollars (\$50.00) for the repair or replacement of the simulated wildlife.

910. Devices Accessed via Internet.

(A) No person shall shoot at or kill any bird or animal in Idaho, wild or domestic, including domestic cervidae governed under the provisions of chapter 37, title 25, Idaho Code, with any gun or other device accessed and controlled via an internet connection. Accessing, regulating access to, or regulating the control of a device capable of being operated in violation of this paragraph shall be prima facie evidence of an offense under this paragraph.

(B) Any person pleading guilty to, convicted of or found guilty of a violation of this paragraph shall be guilty of a misdemeanor and shall be punished as provided in section 36-1402, Idaho Code.

SECTION 2. That Section 36-1401, Idaho Code, be, and the same is hereby amended to read as follows:

36-1401. VIOLATIONS. (a) Infractions. Any person who pleads guilty to or is found guilty of a violation of the following provisions of the fish and game code or the following rules or proclamations promulgated pursuant thereto is guilty of an infraction:

1. Statutes.

(A) Take, transport, use or have in possession bait fish as set forth in section 36-902(d), Idaho Code.

(B) Chumming as set forth in section 36-902(e), Idaho Code.

(C) Nonresident child under the age of fourteen (14) years fishing without a valid license and not accompanied by a valid license holder as set forth in section 36-401(a)2., Idaho Code.

(D) Use or cut a hole larger than ten (10) inches in the ice for ice fishing as set forth in section 36-1509(a), Idaho Code.

(E) Store fish without required tags/permits/statements as set forth in section 36-503, Idaho Code.

(F) Own, possess or harbor any dog found running loose and which is tracking, pursuing, harassing or attacking a big game animal as set forth in section 36-1101(b) ~~68~~. (B), Idaho Code.

(G) Hunt migratory waterfowl without having in possession a signed federal migratory bird hunting stamp as set forth in section 36-1102(b)2., Idaho Code.

(H) Hunt migratory game birds without having in possession a license validated for the federal migratory bird harvest information program permit as set forth in section 36-409(k), Idaho Code.

(I) Trap in or on, destroy or damage any muskrat house as provided in section 36-1103(c), Idaho Code.

(J) Hunt migratory game birds with a shotgun capable of holding more than three (3) shells as provided and incorporated in section 36-1102(b), Idaho Code.

2. Rules or Proclamations.

(A) Fish from a raft or boat with motor attached in waters where motors are prohibited.

(B) Fish with hooks larger than allowed in that water.

(C) Fish with barbed hooks in waters where prohibited.

(D) Exceed any established bag limit for fish by one (1) fish, except bag limits for anadromous fish, landlocked chinook salmon, kamloops rainbow trout, lake trout, or bull trout.

(E) Fish with more than the approved number of lines or hooks.

(F) Fail to leave head and/or tail on fish while fish are in possession or being transported.

(G) Snag or hook fish other than in the head and fail to release, excluding anadromous fish.

(H) Fail to attend fishing line and keep it under surveillance at all times.

(I) Fail to comply with mandatory check and report requirements.

(J) Fail to leave evidence of sex or species attached as required on game birds.

(K) Hunt or take migratory game birds or upland game birds with shot exceeding the allowable size.

(L) Fail to release, report or turn in nontarget trapped animals.

(M) Fail to complete required report on trapped furbearer.

(N) Fail to present required furbearer animal parts for inspection.

(O) Fail to attach identification tags to traps.

(P) Possess not more than one (1) undersized bass.

(Q) Park or camp in a restricted area, except length of stay violations.

(R) Fail to leave evidence of sex attached as required on game animals.

(b) Misdemeanors. Any person who pleads guilty to, is found guilty or is convicted of a violation of the provisions of this title or rules or proclamations promulgated pursuant thereto, or orders of the commission, except where an offense is expressly declared to be an infraction or felony, shall be guilty of a misdemeanor.

(c) Felonies. Any person who pleads guilty to, is found guilty or is convicted of a violation of the following offenses shall be guilty of a felony:

1. Knowingly and intentionally selling or offering for sale or exchange, or purchasing or offering to purchase or exchange, any wildlife, or parts thereof, which has been unlawfully killed, taken or possessed.

2. Releasing into the wild, without a permit from the director, any of the following wildlife, whether native or exotic: ungulates, bears, wolves, large felines, swine, or peccaries.

3. Unlawfully killing, possessing or wasting of any combination of numbers or species of wildlife within a twelve (12) month period which has a single or combined reimbursable damage assessment of more than one thousand dollars (\$1,000), as provided in section 36-1404, Idaho Code.

4. Conviction within ten (10) years of three (3) or more violations of the provisions of this title, penalties for which include either or both a mandatory license revocation or a reimbursable damage assessment.